



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,525	09/19/2003	Julle M. Werbit	P26,038-A USA	5811
23307 7590 03/03/2009 FOX ROTHSCHILD LLP 2000 MARKET STREET 10th Floor PHILADELPHIA, PA 19103				
EXAMINER				
AN, IG TAI				
ART UNIT		PAPER NUMBER		
3687				
MAIL DATE		DELIVERY MODE		
03/03/2009		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/665,525

Applicant(s)

WERBITT, JULIE M.

Examiner

lg T. An

Art Unit

3687

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 December 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) See Continuation Sheet is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) See Continuation Sheet is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Continuation of Disposition of Claims: Claims pending in the application are 1-7,9-12,39-44,47-55,57-79,81-83,85-93,110,112-116,118,120,122-125,127,129-136 and 139-149.

Continuation of Disposition of Claims: Claims rejected are 1-7,9-12,39-44,47-55,57-79,81-83,85-93,110,112-116,118,120,122-125,127,129-136 and 139-149.

DETAILED ACTION

The Amendment filed on 16 December 2008 has been acknowledged. Claims 8, 13 – 38, 45 – 46, 56, 80, 84, 94 – 109, 111, 117, 119, 121, 126, 128, 137 – 138 have been cancelled. Claims 1 – 7, 9 – 12, 39, 41 – 44, 47, 49 – 55, 57, 59, 63 – 70, 74 – 79, 81 – 83, 85 – 93, 110, 112 – 116, 118, 120, 122 – 125 and 127 have been amended. Claims 142 – 149 are newly presented. Currently, Claims 1 - 7, 9 - 12, 39 - 44, 47 - 55, 57 - 79, 81 - 83, 85 - 93, 110, 112 - 116, 118, 120, 122 – 125, 127, 129 – 136 and 139 – 149 are pending and considered as set forth.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claims 1 - 7 and 9 – 12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.**

Claim 1 recites the limitation "the status" in line 5. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 recites limitation "sending a location or other identifier to said central computer." In line 6. It is not clear what it is meant by "sending a location or other identifier." For the purpose of the Examination, the Examiner construes that sending a location or other identifier as sending a location or other identifier information.

Claim 1 recites limitation "receiving and displaying information ..." in line 7. It is not clear what information it is referring to. For the purpose of the Examination, the Examiner construes that any information can qualify the claim limitation.

Claims 2 – 7 and 9 – 12 are dependent from claim 1. Therefore, Claims 2 – 7 and 9 – 12 carry same deficiencies.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. **Claims 1 – 3, 6, 11 – 12, 39 – 42, 49 – 51, 54 – 55, 57 – 59, 61 – 64, 66 – 67, 69 – 70, 73, 75 – 77, 81, 85 – 87, 90 – 91, 93, 110, 114 – 115, 118, 120, 122 – 125,**

127, 142 – 143, and 145 – 149 rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse (US 7257547) in view of Cogen (US 20020138350).

As per Claims 1, 39, 50, 59, 69, 86, and 110, Terasse teaches providing patron units to patrons for use at a venue, wherein the patron units are devices having, wireless communication capability and interactive display screens (Abstract teaches order terminal having wireless communication and touch sensitive screen);

enabling patrons to order items, request services, and/or browse information associated with the venue via the patron units wirelessly (Abstract teaches a user can view contents of service items and order desired item using the patron units which communicate with server wirelessly);

providing portable staff units to staff members of the venue, wherein the portable staff units are wireless devices having interactive display screens (Column 6 line 53 – Column 7 line 7 teaches PHS terminal given to server/waiter/waitress has wireless connection and have interactive display screen such as touch screen);

enabling staff members to view information about orders and/or requests made by the patrons via the portable staff units wirelessly (Column 11 lines 32 – 41 and Column 12 lines 41 – 63 teaches staff view information of game ordering and ordered dishes made by patron); and

displaying locations of the patron units on the display screens of the portable staff units enabling staff members to locate patron units when delivering items and/or

servicing requests (Column 13 lines 1 – 23 teaches staff unit displaying dishes and table number where the ordered dishes should be delivered to).

providing, to a plurality of patrons, a patron unit in communication with one more central computer systems (Abstract teaches order terminals having wireless communication and touch sensitive screen), each of said patron units providing the functions of:

providing an interactive display (Abstract teaches order terminal having wireless communication and touch sensitive screen);

allowing a patron to input a request (Abstract teaches a user can view contents of service items and order desired item using the patron units which communicate with server wirelessly);

displaying the status of open requests for said patron (Abstract, Column 12 line 41 – 63, Claim 19 and 20 language teaches the order status displayed to the order terminals);

sending a location or other identifier to said central computers (Column 10 line 57 – Column 11 line 30 teaches sending table location of the order terminal to the central control unit); and

receiving and displaying information from said central computers (Column 2 line 43 – 48 teaches control unit sending menu information and updates for the existing data in the terminals);

providing, to a plurality of staff, a portable staff unit in communication with said one or more central computer systems (Column 6 line 53 – Column 7 line 7 teaches PHS terminal given to server/waiter/waitress has wireless connection and have interactive display screen such as touch screen. Abstract further teaches the PHS terminal communicate with central control unit), each of said staff units providing the functions of:

providing an interactive display (Column 6 line 53 – Column 7 line 7 teaches PHS terminal given to server/waiter/waitress has wireless connection and have interactive display screen such as touch screen);

sending requests to said central computers for information regarding requests or patrons (Column 6 line 53 – Column 7 line 5 teaches sending a requests to the central computer by notifying the central computer that the two table is combined as one guest group);

viewing outstanding requests and their status from one or more of said patron units (Abstract, Column 12 line 41 – 63, and Claim 19 and 20 language teaches the order status displayed to the order terminals);

displaying a map showing the location of one or more of said patron units (Column 10 line 64 – Column 11 line 9 and 13 lines 1 – 23 teaches guide display visually displaying the route to the table for the customer, and staff unit displaying dishes and table number where the ordered dishes should be delivered to);

allowing a staff member to update the status of an outstanding patron request (Column 8 line 40 - 64 and Column 12 line 41 – 63 teaches that kitchen terminal used

by staff updates the status of the ordered food to all the terminal including order terminals of the patrons) and

allowing a staff member to input requests for patrons (Column 8 line 40 - 64 and Column 18 lines 61 – 67 teaches kitchen terminal indicates the ordered food status and availability of the food in response to input from the PHS terminals); and

providing one or more central computer systems (Abstract and Column 5 line 9 – 13 teaches control unit and central processor), said one or more central computer systems providing the functions of:

identifying a plurality of patron units by location or a specific identifier (Abstract, Column 5 line 9 – 13 and Column 6 line 55 - Column 7 line 35 teaches that the terminal receptacle read the identification code from the table top terminal, and table top terminal incorporate the table identification code when it sends its order. Therefore, the central system would recognize the location of the table top terminal using the identification code);

receiving and processing requests from a plurality of patrons via said plurality of patron units (Abstract and Column 4 line 22 – Column 5 line 13 teaches the central control units receives orders from the table top terminals then send it to worktable terminals or kitchen terminals);

receiving and processing requests from a plurality of staff (Abstract and Column 4 line 22 – Column 5 line 13 and Column 8 line 40 - 64 and Column 18 lines 61 – 67

teaches kitchen terminal indicates the ordered food status and availability of the food in response to input from the PHS terminals); and

interfacing with an external point of sale system (Abstract teaches control unit communicate with the accounting unit).

Terase does not explicitly disclose storing information regarding past requests from each patron; and displaying information regarding past requests from particular patrons.

Cogen discloses System and method for placing orders at a restaurant directing the patron unit to store and display an item previously ordered by the patron (Paragraph 10).

Therefore, from this teaching of Cogen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasa to include enabling the customer to order same food as the customer previously ordered as taught by Cogen to enhance customer satisfaction.

Furthermore, all the claimed elements were known in the prior arts of Terasa and Cogen, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 2 and 61, Terase teaches offering, via said patron units, at least one service selected from a group consisting of interactive video games, music, movies, Internet access, voice and telephony access (Column 11 lines 32 – 41 and Column 12 lines 18 – 22, Furthermore, Column 6 line 49 – Column 7 line 5 teaches the LCD display of the table top terminal is being used as game machine monitor. Therefore, The Examiner construes that the video game is played using the table top terminal and PHS terminal of employee is to enabling the game in order to charge the customer for playing time of the game).

As per Claims 3 and 67, Terase teaches wherein said processing request step comprising the step of routing requests to appropriate fulfillment centers (Column 11 line 32 – 41 and Column 12 lines 8 – 18).

As per Claims 6, 57, 66 and 93, Terase teaches patrons can request bills via said patron units (Column 13 lines 26 – 55).

As per Claims 9 and 82, Terase teaches displaying good and service offered by the venue on the patron units (Column 7 line 29 – 50).

As per Claims 11 and 62, Terase teaches wherein said step of receiving and displaying information from said central computers includes displaying advertisements on the patron units (Column 12 lines 18 – 24).

As per Claims 12, 49 and 85, wherein advertisements are appurtenant to the request made by the patrons on the patron units (Column 11 lines 49 – 64 teaches different menu items with descriptions and graphics displayed on the order terminal. Table top terminal displays advertisement (in Column 12 line 18 – 24). The examiner construes that advertising appurtenants to the item ordered is equivalent to the menu item displayed on the order terminal that customer ordered. The Examiner further construes that, considering the reference as a whole, combining those two elements from the prior art, it is obvious to construes that Terasé teaches the advertisement which is pertinent to the menu items).

As per Claims 40 and 63, and 75, Terasé teaches all the elements of the claimed invention but is silent regarding directing the patron unit to display an item previously ordered by the patron to enable the patron to reorder the previously ordered item.

Cogen discloses System and method for placing orders at a restaurant directing the patron unit to display an item previously ordered by the patron to enable the patron to reorder the previously ordered item (Paragraph 10).

Therefore, from this teaching of Cogen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasé to include enabling the customer to order same

food as the customer previously ordered as taught by Cogen to enhance customer satisfaction.

Furthermore, all the claimed elements were known in the prior arts of Terasé and Cogen, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 41, 64 and 76, Terasé teaches all the element of the claimed invention but is silent regarding preference information regarding a patron.

Cogen discloses system and method for placing order at a restaurant having preference information regarding a patron (Paragraph 13).

Therefore, from this teaching of Cogen, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of Terasé to include storing customer preference information as taught by Cogen to enhance customer satisfaction.

Furthermore, all the claimed elements were known in the prior arts of Terasé and Cogen, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the

invention.

As per Claims 42 and 77, Terase teaches directing the patron unit to display an estimate of the time to completion of a pending request (Column 12 lines 41 – Column 13 lines 25).

As per Claims 51 and 87, Terase teaches directing a portable staff unit to indicate whether a request for a patron has been completed (Column 12 lines 40 – Column 13 lines 23).

As per Claim 54, 90, and 114, Terase teaches directing a portable staff unit to display patrons that are logged onto a network for the venue (Column 6 lines 53 – Column 7 lines 5).

As per Claim 55, 91, 115, Terase teaches directing a portable staff unit to display real-time activity of a patron which is performed concurrently on a portable patron device (Column 11 lines 31 – 40 and Column 13 lines 26 – 55 teaches real-time communication of patron activity to the PHS terminal).

As per Claim 58, Terase teaches direct a portable staff unit to display messages received from venue management (Abstract, Column 5 lines 8 – 13 and Column 14 lines 29 – 41 teaches communication between store control unit and the PHS terminals

and graphic display send data to store control unit then to PHS terminals).

As per Claim 70, Terase teaches wherein said portable patron unit is a dedicated device capable of being handheld and carried by the patron, said portable patron unit being provided to the patron upon checking into the venue or after the patron enters a particular public area of the venue (Figure 3, Column 6 line 46 – Column 7 line 5 and Column 10 lines 57 – Column 11 lines 21).

As per Claims 73 and 123, Terase teaches wherein the display device is touch-screen display device (Column 6 lines 45 – Column 7 lines 5).

As per Claim 81, Terase teaches the user interface is configured to display messages to the patron (Column 11 lines 32 – 40).

As per Claims 118, 120, 122, 124, 125, 127, Terase teaches all the limitations of the claims (refer to Claims 1, 39, 50, 59, 69, 86, 94 and 110) except the use in a stadium/arena.

The Examiner notes, the use in a stadium/arena does not modify the operation of Terase's method and system, and to have modified the method and system of Terase to have included the use in a stadium/arena would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method already discloses by Terase. Such modification would not have

otherwise affected the method and system of Terase and would have merely represented one of numerous steps or elements that the skilled artisan would have found obvious for the purposes already disclosed by Terase. Additionally, applicant has not persuasively demonstrated the criticality of providing this element/step versus the elements/steps disclosed by Terase. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

As per Claims 142, 146 – 149, Terase teaches communication link is wireless link (Column 11 line 16 – 26).

As per Claims 143 and 145, Terase teaches the location of the patron unit is transmitted to the central computer wirelessly (Abstract, Column 5 line 9 – 13 and Column 6 line 55 - Column 7 line 35 and Column 12 line 8 – 18 teaches that the terminal receptacle read the identification code from the table top terminal, and table top terminal incorporate the table identification code when it sends its order wirelessly. Therefore, the central system would recognize the location of table top terminal using the identification code).

6. Claims 10, 47, and 83 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terase in view of Cogen and in further view of Baratz (US 20040054585).

As per Claims 10, 47 and 83, the combination of Terase and Cogen teaches all the elements of the claimed invention but is silent regarding displaying cross-sell and/or up-sell recommendations based on previous requests made by the patrons.

Baratz discloses sales enhancement system and method for retail businesses displaying cross-sell and/or up-sell recommendations based on previous requests made by the patrons (Paragraph 72 – 75).

Therefore, from this teaching of Baratz, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terase and Cogen to include upsale feature as taught by Baratz to increase sales and profit.

Furthermore, all the claimed elements were known in the prior arts of Terase and Cogen and Baratz, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

7. Claims 43, 78, 134, 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terase in view of Cogen and in further view of Toth. (US 20030078793).

As per Claims 43, 78, 134 and 139, the combination of Terase and Cogen teaches all the elements of the claimed invention but is silent regarding directing patron unit to authenticate the patron before the request is fulfilled.

Toth discloses enhanced customer-centric restaurant system directing patron unit to authenticate the patron before the request is fulfilled (Paragraph 71).

Therefore, from this teaching of Toth, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terase and Cogen to include authenticate the patron before order is fulfilled as taught by Toth to deliver the ordered food to appropriate customer.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Toth, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

8. Claims 71 – 72, 129 – 131 and 140 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terase in view of Cogen and in further view of Camaisa et al. (hereinafter Camaisa) (US 5845263).

As per Claims 71, 129 -131 and 140, the combination of Terasa and Cogen teaches all the elements of the claimed invention but is silent regarding wherein the portable patron unit is configured to be secured to furniture used by the patron while in a particular public area of the venue.

Camaisa discloses interactive visual ordering system having wherein the portable patron unit is configured to be secured to furniture used by the patron while in a particular public area of the venue (Column 6 lines 27 – 30).

Therefore, from this teaching of Camaisa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasa and Cogen to include ordering terminal is securely attached to furniture as taught by Camaisa to prevent the loss of the ordering terminal.

Furthermore, all the claimed elements were known in the prior arts of Terasa, Cogen and Camaisa, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claim 72, the combination of Terasa and Cogen teaches all the elements of the claimed invention but is silent regarding wherein the display device is large

enough to enable a patron with myopia to read information displayed on the user interface without having to use corrective optical lenses.

Camaisa discloses interactive visual ordering system having wherein the display device is large enough to enable a patron with myopia to read information displayed on the user interface without having to use corrective optical lenses (Figure 6 – 15).

Therefore, from this teaching of Camaisa, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasa and Cogen to include ordering terminal is large enough that user does not need optical lenses as taught by Camaisa to prevent the loss of the ordering terminal.

Furthermore, all the claimed elements were known in the prior arts of Terasa, Cogen and Camaisa, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

9. Claims 4 – 5, 7, 44, 52 – 53, 65, 68, 79, 92, 112 – 113 and 116 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasa in view of Cogen and in further view of Ragsdale-Elliott et al. (Hereinafter Ragsdale) (US 20020147647).

As per Claims 4 and 68, the combination of Terase and Cogen disclose notifying staffs via their portable staff units when specific requests are completed or ready for delivery from the appropriate fulfillment centers to the patrons (Column 12 lines 41 – Column 13 line 23), but is silent regarding staffs responsible for a particular order.

Ragsdale discloses wireless Maitre D' System for restaurants having staffs responsible for a particular order (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terase and Cogen to include display an order assign to a particular staff member as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 5, 44, 79, 92 and 116, the combination of Terase and Cogen does disclose patron to page staff members for immediate assistance (Column 11 lines

32 – 41 and Column 16 lines 48 – 52), but is silent regarding staff members assigned to that patron.

Ragsdale discloses wireless Maitre D' System for restaurants having staff members assigned to that patron (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasé and Cogen to include display an order assign to a particular staff member as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terasé, Cogen and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 7 and 65, the combination of Terasé and Cogen does disclose said portable staff units display a status of open requests on portable staff units (Column 8 line 40 – 52 and Column 12 line 40 – Column 13 lines 25 teaches that kitchen terminal send a response message to the PHS terminal when status of order is asked), but is silent regarding requests which are assigned to a particular staff member.

Ragsdale discloses wireless Maitre D' System for restaurants having requests which are assigned to a particular staff member (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terase and Cogen to include display an order assign to a particular staff member as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 52 and 112, the combination of Terase and Cogen teaches the portable staff unit to display a request from the patron (Column 6 line 53 – Column 7 line 5 teaches LCD display panel on the PHS terminal and Column 8 line 40 – 64 teaches the employee can receive order from the patron and check the status of the order. Therefore, Terase's invention teaches that PHS terminal, which is carried by the employee, displaying the order of the patron) but is silent regarding patron assigned to a particular staff member.

Ragsdale discloses wireless Maitre D' System for restaurants patron assigned to a particular staff member (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terase and Cogen to include display an order assign to a particular staff member as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claims 53 and 113, the combination of Terase and Cogen teaches the portable staff unit to display a request from the patron (Column 6 line 53 – Column 7 line 5 of Terase teaches LCD display panel on the PHS terminal and Column 8 line 40 – 64 of Terase teaches the employee can receive order from the patron and check the status of the order. Therefore, the combination of Terase's invention teaches that PHS terminal, which is carried by the employee, displaying the order of the patron) but is silent regarding orders assigned to a particular zone of responsibility.

Ragsdale discloses Wireless Maitre D' System for restaurant orders assigned to a particular zone of responsibility (Paragraph 89).

Therefore, from this teaching of Ragsdale, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasé and Cogen to include display an order assign to a particular zone as taught by Ragsdale to more effectively manage orders.

Furthermore, all the claimed elements were known in the prior arts of Terasé, Cogen and Ragsdale, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

10. Claim 74 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terasé in view of Cogen and in further view of Gold (US 20030089832).

As per Claim 74, the combination of Terasé and Cogen teaches package configured to provide protection against other contaminants (Column 16 lines 57), but is silent regarding providing protection against sun.

Gold discloses multi-function accessory for handheld electronics providing protection against sun (Paragraph 19).

Therefore, from this teaching of Gold, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify providing protection to the terminal against water and other bacteria of the combination of Terasse and Cogen to include protection against sunlight as taught by Gold to provide clearer image by eliminating the glares (Paragraph 19).

Furthermore, all the claimed elements were known in the prior arts of Terasse, Cogen and Gold, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

11. Claims 132 – 133 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse in view of Cogen and in further view of Leifer (US 20030088469).

As per Claim 132, The combination of Terasse and Cogen teaches all the elements of the claimed invention but is silent regarding the patron unit storing data indicative of a location of the patron unit.

Leifer discloses restaurant management system having the patron unit storing data indicative of a location of the patron unit (Paragraph 35 – 36 teaches customer keypad having location identifier sending signals to the central station and central station identify the location of the customer based on the identifier signal sent from the customer keypad)

Therefore, from this teaching of Leifer, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify restaurant ordering system of the combination of Terase and Cogen to include patron unit storing data indicative of a location of the patron unit as taught by Leifer to deliver customer's order to correct customer.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Leifer, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claim 133, Terase, Cogen and Leifer do not explicitly disclose wherein the data indicative of the location comprises a room number. Terase, Cogen and Leifer do disclose data indication of the location including table numbers or specific customer location of the patron unit.

The Examiner notes, a room number does not modify the operation of Terase, Cogen and Leifer's method and system, and to have modified the method and system of Terase, Cogen and Leifer to have included a room number would have been obvious to the skilled artisan because the inclusion of such step would have been an obvious matter of design choice in light of the method and system already disclosed by Terase, Cogen and Leifer. Such modification would not have otherwise affected the method and system of Terase, Cogen and Leifer and would have merely represented one of

numerous steps or elements that the skilled artisan would have found obvious for the purposes already disclosed by Terasse, Cogen and Leifer. Additionally, applicant has not persuasively demonstrated the criticality of providing this step/element versus the steps/elements disclosed by Terasse, Cogen and Leifer. See *In re Japikse*, 181 F.2d 1019, 86 USPQ 70 (CCPA 1950).

12. Claims 135 – 136 and 139 are rejected under 35 U.S.C. 103(a) as being unpatentable over Terasse in view of Cogen and in further view of Walker et al. (Hereinafter Walker) (US 5794207).

As per Claims 135 and 139, the combination of Terasse and Cogen teaches all the elements of the claimed invention but is silent regarding wherein the authentication comprises enabling the patron unit to accept a biometric sample of the patron.

Walker discloses method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers having wherein the authentication comprises enabling the patron unit to accept a biometric sample of the patron (Column 25 lines 35 – Column 26 lines 2).

Therefore, from this teaching of Walker, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasse and Cogen to include

authenticate the customer using biometric samples as taught by Walker to ensure the food is delivered to correct patron.

Furthermore, all the claimed elements were known in the prior arts of Terasse, Cogen and Walker, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

As per Claim 136, the combination of Terasse and Cogen teaches all the elements of the claimed invention but is silent regarding wherein said biometric sample is a fingerprint.

Walker discloses method and apparatus for a cryptographically assisted commercial network system designed to facilitate buyer-driven conditional purchase offers having wherein said biometric sample is a fingerprint (Column 25 lines 35 – Column 26 lines 2).

Therefore, from this teaching of Walker, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify service management system which include patron unit/order terminal and PHS terminal/portable staff unit of the combination of Terasse and Cogen to include authenticate the customer using biometric samples such as fingerprint as taught by Walker to ensure the food is delivered to correct patron.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Walker, and one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

13. Claim 144 is rejected under 35 U.S.C. 103(a) as being unpatentable over Terase in view of Cogen and in further view of Fano (US 6317718).

As per Claim 144, the combination of Terase and Cogen teaches all the elements of the claimed invention but is silent regarding GPS receiver and location information via using GPS receiver.

Fano discloses system, method and article of manufacture for location based filtering for shopping agent in the physical world having GPS receiver and location information via using GPS receiver (Abstract).

Therefore, from this teaching of Fano, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify handheld unit used by patron transmit the location of the unit of Terase and Cogen to include GPS receiver and obtaining location information using GPS receiver as taught by Fano to obtain precise location information.

Furthermore, all the claimed elements were known in the prior arts of Terase, Cogen and Fano, and one skilled in the art could have combined the elements as

claimed by known methods with no change in their respective functions, and the combination would have yielded predictable results to one of ordinary skill in the art at the time of the invention.

Response to Arguments

14. Applicant's arguments filed 16 December 2008 have been fully considered but they are not persuasive.

15. Applicant's arguments with respect to claims 1, 5, 39, 42, 44, 50, 59, 69, 74, 77, 79, 86, 92, 110 and 116 have been considered but are moot in view of the new ground(s) of rejection.

16. Applicant's arguments, see Remarks, filed 16 December 2008, with respect to the rejection(s) of claim(s) 4, 7, 52, 65 and 68 under Terasa have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Terasa in view of Cogen in further view of Ragsdale-Elliott.

17. Applicant's arguments, see Remarks, filed 16 December 2008, with respect to the rejection(s) of claim(s) 8, 41, 64, 76 and 92 under Terasa in view of Mayer have been fully considered and are persuasive. Therefore, the rejection has been withdrawn.

However, upon further consideration, a new ground(s) of rejection is made in view of Terasse in view of Cogen.

18. Applicant's arguments, see Remarks, filed 16 December 2008, with respect to the rejection(s) of claim(s) 43, 78, 134 and 139 under Terasse in view of Camaisa have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Terasse in view of Cogen and in further view of Toth.

19. Applicant's arguments, see Remarks, filed 16 December 2008, with respect to the rejection(s) of claim(s) 132 and 133 under Terasse have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Terasse in view of Cogen and in further view of Leifer.

The Applicant next argues, "Terasse does not teach patron unit offering video gaming function." The Examiner respectfully disagrees. Terasse teaches the playing game using the table top terminal which is equivalent to the order terminal. The Applicant argues that PHS terminal is used to enabling the user to play video game but PHS terminal is used by employee and is not identical machine as table top terminal. As mention in the previous office action, Column 12 line 18 - 22 clearly teaches playing video game using table top terminal. Furthermore, Column 6 line 49 – Column 7 line 5

teaches the LCD display of the table top terminal is being used as game machine monitor. Therefore, The Examiner construes that the video game is played using the table top terminal and PHS terminal of employee is to enabling the game in order to charge the customer for playing time of the game.

The Applicant next argues, "Terase does not disclose the offering of services through its system, it only specifies the ordering of menu items at a restaurant type service establishment." The Examiner respectfully disagrees. Considering the reference as a whole, Column 1 line 5 – 14 discloses the system can be used in many different places to offer services.

The Applicant next argues, "Terase does not disclose routing request to the appropriate fulfillment center." The Examiner respectfully disagrees. Terase clearly teaches the order will be routed to the kitchen which is equivalent to the routing the request to appropriate fulfillment center. Furthermore, Terase discloses that the request to call for assistance is routed to the waiter/waitress (Column 11 line 32 – 41) which is another example of routing the request to appropriate fulfillment center. Therefore, Terase does disclose routing request to the appropriate fulfillment center.

The Applicant next argues, "In Terase, the customer bill is not delivered to the table but, instead, the customer is delivered to the cashier by the employee." The

Examiner agrees that Terase's system include such method of presenting the bill. However, considering reference as a whole, Terase also teaches bring the bill to the customer's table by displaying the bill on the table top terminal in Claim 26 language. Therefore, Terase teaches delivering the requested bill to the patron.

The Applicant next argues, "Nowhere in either of these passages or any where else in Terase is the limitation of Claim 8 disclosed, that being that the actions performed by patrons on the patron's units are displayed on the portable staff units." The Examiner respectfully disagrees. In the previous Office Action, which refers to Column 11 lines 31 – 40 and Column 13 lines 26 – 55 of Terase, Terase teaches the employee with PHS terminal is notified and the employee notifies the patron back by sending a message to the table top terminal. The notification message for "call" or "payment" would be displayed on the PHS terminal screen in order to notify the employee so the employee can respond to the patron. Furthermore, Column 6 line 49 – Column 7 line 5 and Figure 4 teaches having a LCD display which enables the terminal to display messages. Therefore, Terase, by combining above rationale, teaches the limitation of "actions performed by patrons on the patron's units are displayed on the portable staff units."

The Applicant next argues, "This portion of Terase discloses the display of menus of the establishment on the table top terminal 10 and includes information such

as calories, nutrients, etc. as well as a potential photograph or other display of the dish. Nowhere in this passage is an advertisement pertinent to the item being displayed." The Examiner respectfully disagrees. The Examiner in the previous Office Action, expressed that the table top terminal displays advertisement (in Column 12 line 18 – 24) and the description and the image of the menu item can be displayed on the table top terminal (in Column 11 line 49 -64). The Examiner construes that, considering the reference as a whole, combining those two elements from the prior art, it is obvious to construe that Teras teaches the advertisement which is pertinent to the menu items. Furthermore, the Examiner notes that the Applicant did not sufficiently traverse why displaying the image of item on the table top terminal can not be equivalent to advertisement.

The Applicant next argues, "Nowhere in column 9 is it disclosed that the preference information is displayed on the patron unit. This particular feature would be useful, for example, if the patron should wish to order another round of the same drinks or food items as previously ordered. With respect to the cited passage in column 11, this particular passage indicates that there are a plurality of menus which are available based upon the kind of customer including, for example, children, women, senior citizens, etc. However, nowhere in this passage does it disclose that preference information of a particular patron is kept and as a result, there can be no display of the information which is pertinent with respect to a particular patron." Applicant's arguments with respect to claims 41, 64 and 76 are moot because the applicant cancelled the features mentioned in the claims.

The Applicant next argues, "There is no teaching in Terase of allowing a staff member being able to input this information to a portable staff unit or having the portable staff unit display whether an order has been delivered to the patron or not. This information in Terase is displayed on the work station table terminal 15, as previously discussed." The Examiner respectfully disagrees. The Applicant admitted and wrote on the remarks that the employee in the restaurant who has PHS terminal delivers ordered food to the patron and updates the status of the order as completed/delivered using PHS terminals in Column 13 line 14 - 18. Therefore, Terase covers the limitation of a staff member being able to input this information to a portable staff unit or having the portable staff unit display whether an order has been delivered to the patron or not.

The Applicant next argues, "There is no discussion of the portable staff units here and, in particular, no discussion of portable staff units which are able to display all patrons that are logged into the network or venue." The Examiner respectfully disagrees. Terase discloses PHS terminal permits and controls data communication between various units and terminals (Column 6 line 58 – 60), and units and terminals include table top terminals, counter top terminals, kitchen terminal, worktable terminal, and etc. (Column 6 line 45 – 52). Furthermore, Terase teaches PHS terminal having LCD display which can display various data (Column 6 line 44 – Column 7 line 5). Therefore, by combining features of Terase mentioned above, Terase covers the

elements of the portable staff units which are able to display all patrons that are logged into the network or venue.

The Applicant next argues, "no disclosure is made here of the portable staff unit displaying messages which are received from the venue management." The Examiner respectfully disagrees. Considering the reference as a whole, Column 6 line 44 – Column 7 line 5 of Terase teaches PHS terminal of the employee has the LCD display to display messages and other data communications, and PHS terminal communicates with other units and terminals, and Column 5 lines 8 – 13 of Terase teaches control unit which function as POS system is connected to the central processor of the head office. The combination of PHS terminal having LCD display and PHS terminal communicating with control unit, which communicate with head office would cover the element of the portable staff unit displaying messages which are received from the venue management.

The Applicant next argues, "The Applicant respectfully submits that the patron unit is not portable and is not provided to the patron upon checking into the venue or when the patron enters a particular public area of the venue. The table top terminals units are stationary at the tables of the restaurant and do not move unless they must be recharged." The Examiner respectfully disagrees. Column 10 line 57 – Column 11 line 21 does disclose the fact that table top terminal is provided to the customer when they

are in the restaurant. Furthermore, considering the reference as a whole, Column 4 line 38 – 55 of Terasé clearly discloses that the table top terminal is compact, thin and portable terminal. Column 4 lines 38 – 55 further discloses that the portable table top terminal is provided to the customer when customer enters the restaurant or saloon.

The Applicant next argues, "There is no disclosure in this passage or anywhere else in Terasé of the user interface being configured to display messages to the patron on the patron unit." The Examiner respectfully disagrees. Column 11 line 32 – 40 of Terasé clearly teaches the table top terminal indicate message "Please Wait" once it receive response from the employee. In response to applicant's argument that "There is no disclosure in this passage or anywhere else in Terasé of the user interface being configured to display messages to the patron on the patron unit.", a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

The Applicant next argues, "there is no disclosure in Baratz of a patron unit displaying up-sell or cross-sell information. " In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., patron unit) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from

the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Furthermore, In response to applicant's arguments against the references individually, one cannot show nonobviousness by attacking references individually where the rejections are based on combinations of references. See *In re Keller*, 642 F.2d 413, 208 USPQ 871 (CCPA 1981); *In re Merck & Co.*, 800 F.2d 1091, 231 USPQ 375 (Fed. Cir. 1986).

The Applicant next argues, "The Examiner states that Terase is silent regarding having the patron unit display an item previously ordered by the patron to enable the patron to reorder the same item, but the Cogen discloses this feature in paragraph 10. The Applicant is in agreement that Cogen discloses a system which allows users to order previously ordered items at a restaurant. The difference appears to be that the units in Baratz are owned by the customer and it is necessary to download software into the unit to implement the storage of the previous orders. Therefore, the combination of Terase and Baratz does not disclose a patron unit being able to display previous orders of the patron." The Examiner notes that Claims 40, 63 and 75 are rejected with prior arts of the Terase and Cogen, not Baratz. Therefore, this argument is moot.

The Applicant next argues, "the Examiner states that Terase fails to teach a portable staff unit displaying orders assigned to a particular zone of responsibility, but

that Ragsdale-Elliot discloses this in paragraph 89. Once again, the Applicant's reading of paragraph 89 of Ragsdale does not reveal this feature." The Examiner agrees that Ragsdale-Elliot does not teach a portable staff unit displaying orders. However, Terase teaches a portable staff unit displaying orders or capable of displaying orders (Column 6 line 53 – Column 7 line 5 teaches LCD display panel on the PHS terminal and Column 8 line 40 – 64 teaches the employee can receive order from the patron and check the status of the order). Therefore, Terase's invention teaches that PHS terminal, which is carried by the employee, displaying the order of the patron. Therefore, rearrangement of the rejection has been made.

Conclusion

20. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Coleman (US 5602730) discloses restaurant management system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ig T. An whose telephone number is (571)270-5110. The examiner can normally be reached on Monday - Thursday from 9:30 AM to 5 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew S. Gart can be reached on 571-272-3955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Matthew S Gart/
Supervisory Patent Examiner, Art
Unit 3687

/lg T. An/
Examiner, Art Unit 3687